IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1201/2006
(Jaggu alias Jagdish Vs. State of Rajasthan)

Date of Order : 14/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Ramesh Purohit for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 13.7.2006 passed by Additional Sessions Judge (Fast Track) No.1, Bhilwara (for short 'the trial court' hereinafter) in Sessions Case No.83/2005, whereby the trial court forfeited the personal bonds and surety bonds filed by the petitioner on his failure to appear before the trial court on 13.7.2006 and directed to initiate the proceeding under Section 446 Cr.P.C.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the order impugned.

It is contended by learned counsel for the petitioner that the petitioner has regularly been appearing before the trial

court on each and every date of hearing, however, on 13.7.2006, the petitioner suddenly fell ill and could not appear before the trial court. An intimation to this effect was also sent to his counsel for seeking dispensing with the personal appearance of the petitioner, but unfortunately the counsel representing the petitioner before the trial court Mr. Tejsingh also fell ill and was hospitalized and subsequently expired, and therefore, due to unavoidable circumstances, the petitioner was prevented to appear before the trial court on 13.7.2006 and 14.7.2006. The petitioner has filed his treatment record showing that he was under treatment in Govt. Hospital, Salavtiya from 13.7.2006 to 16.7.2006 issued by Medical Officer.

Learned counsel for the petitioner submits that the petitioner would appear before the trial court on the next date and in the interest of justice the order impugned forfeiting the personal bonds and surety bonds filed by the petitioner as also the direction for initiation of proceeding under Section 446 Cr.P.C. may be quashed.

I have given my thoughtful consideration to the submissions made by the learned counsel. Carefully gone through the material available on record.

The material available on record show that the petitioner has been regularly appearing before the trial court except on 13.7.2006 due to his sudden ailment. Having regard

to the peculiar facts and circumstances of the case and more particularly the fact that counsel representing the petitioner before the trial court fell ill and subsequently expired, in my view, to secure the ends of justice, the petitioner is to surrender before the trial court and move a fresh bail application and if the petitioner appears before the trial court and moves bail application, the trial court shall release him on bail on the terms and conditions it thinks fit. However, the order impugned initiating proceeding under Section 446 Cr.P.C. is set aside.

The criminal misc petition is accordingly disposed of.

(H.R.PANWAR),J.

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